

SENATE BILL REPORT

HB 2140

As of March 23, 2015

Title: An act relating to good cause exceptions during permanency hearings.

Brief Description: Concerning good cause exceptions during permanency hearings.

Sponsors: Representatives Kagi, Orwall, Johnson, Walsh, Sells, Clibborn, Tarleton, Appleton, Ortiz-Self, Hargrove, Zeiger, Senn, Ormsby, Kilduff, Walkinshaw and Goodman.

Brief History: Passed House: 3/09/15, 98-0.

Committee Activity: Human Services, Mental Health & Housing: 3/19/15.

SENATE COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH & HOUSING

Staff: Alison Mendiola (786-7444)

Background: Dependency Court System. The Department of Social and Health Services (DSHS) may file a petition in court alleging that a child should be a dependent of the state due to abuse, neglect, or because there is no parent, guardian, or custodian capable of adequately caring for the child.

If a court determines that a child is dependent, then the court will conduct periodic reviews and make determinations regarding the child's placement, the provision of services by DSHS, compliance of the parents, and whether progress has been made by the parents.

Under certain circumstances after a child has been removed from the custody of a parent for at least six months pursuant to a finding of dependency, a petition may be filed seeking termination of parental rights.

Adoption and Safe Families Act. The federal Adoption and Safe Families Act (ASFA) of 1997 requires child welfare agencies to file a petition seeking termination of parental rights if a child has been in out-of-home care for 15 of the most recent 22 months, unless the court makes a good-cause exception as to why the filing of a termination petition is not appropriate.

Good-Cause Exceptions Not to File a Termination Petition. In Washington, good cause exceptions not to file a termination petition when a child has been in out-of-home care for 15 out of the last 22 months include, but are not limited to, the following:

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- The child is cared for by a relative;
- DSHS has not provided services that the court and DSHS have deemed necessary for the child to safely return home;
- DSHS has documented in the case plan a compelling reason why filing a termination petition would not be in the child's best interests;
- The parent is incarcerated or the parent's prior incarceration is a significant factor in why the child has been in out-of-home care, the parent maintains a meaningful role in the child's life, and DSHS has not documented another reason to file a termination petition;
- The parent has been accepted into a dependency treatment court program or long-term substance abuse program and is demonstrating compliance with treatment goals until June 30, 2015; or
- The parent files a declaration stating the parent's financial inability to pay for court-ordered services and DSHS was unwilling or unable to pay for the same services necessary for the child to safely return home until June 30, 2015.

Substitute House Bill 1821 was enacted in 2013 and added the last two good-cause exceptions listed above along with their expiration on June 30, 2015.

Summary of Bill: The expiration is removed on June 30, 2015, of the following good-cause exceptions for the court not to order DSHS to file a petition seeking the termination of parental rights if a child has been in out-of-home care for 15 of the last 22 months since the date the dependency petition was filed:

- where a parent has been accepted into a dependency treatment court program or long-term substance abuse or dual diagnoses treatment program and is demonstrating compliance with treatment goals; and
- where a parent who has been court ordered to complete services necessary for the child's safe return home files a declaration under penalty of perjury stating the parent's financial inability to pay for the services and that DSHS was unwilling or unable to pay for those services.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: This bill takes effect on June 30, 2015.

Staff Summary of Public Testimony: PRO: This bill is a continuation of Representative Freeman's work. He was a public defender who worked with parents and saw firsthand the number of times a court ordered services and a family couldn't afford to pay for them so petitions to terminate a parent's rights were filed. At the time, DSHS was concerned about what they had to provide so these two exceptions were put into place for two years. Two years later, this hasn't been a big issue cost wise for DSHS. Parents who are trying to get their act together shouldn't be further disenfranchised when they can't afford services or services are not available in their area. By helping parents, this helps children have better outcomes.

Persons Testifying: PRO: Representative Kagi, prime sponsor; Laurie Lippold, Partners for Our Children; Jason Bragg, Parent Mentor, WA State Parent Advocacy Network; Nancy Sapiro, Legal Voice.

Persons Signed in to Testify But Not Testifying: No one.